IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

CRP.No. 348 of 2006(H)

AGAINST THE ORDER DATED 28/03/2006 IN EP 150 / 2005 IN OS.552/1997 of MUNSIFF MAGISTRATE, SULTHAN BATHERI

.....

REVN. PETITIONER: JUDGMENT DEBTOR:

RAGHAVAN, S/O. KRISHNAN PUTHENPURACKAL
HOUSE, CHELASSERYIL, VARADOOR P.O.,
PUTHADY AMSOM DESOM, SULTHAN BATHERY TALUK,
WAYANAD DISTRICT.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)
SMT.A.A.GEETHA

RESPONDENTS: DECREE HOLDER:

V.M. SAIDALAVI, S/O. MOHAMMED,
VALLIYIL HOUSE, IRULAM P.O.,
SULTHAN BATHERY.

BY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.R.P.348/06

ORDER ON I.A.1521/06 IN C.R.P.348/06

DISMISSED.

20.12.2006. SD/-M.SASIDHARAN NAMBIAR, JDUGE.

M.SASIDHARAN NAMBIAR,J.

C.R.P.NO.348 OF 2006

DATED THIS THE 20TH DAY OF DECEMBER, 2006

ORDER

Petitioner is the judgment debtor. Respondent is the decree holder. Petitioner is challenging the order of the executing Court directing his arrest. The order dated 28.3.06 challenged in the revision reads:

"Judgment debtor makes no payment. Issue warrant of arrest against judgment debtor.Call on 24.5.06"

2. Though notice was sent to respondent, he refused to receive the notice and he did not appear.

3. Learned Counsel appearing for petitioner was heard.

4. The contention of petitioner was that though it was contended before the executing Court that the entire amount was paid, without considering that objection, an order of arrest was passed and so the order dated, 28.3.06 is to be quashed. In view of the contention of the judgment debtor, executing Court is bound to consider that question. As it was not considered, executing Court is directed to consider the case of petitioner that the entire amount was

paid. The Court has to find out whether any balance amount is payable and if so, whether petitioner is to be arrested and detained for realisation of the amount.

Petition disposed.

M.SASIDHARAN NAMBIAR,JUDGE

Acd